

BOA GENERAL REVIEW COVERSHEET**CASE:** C15-2019-0064**BOA DATE:** November 7, 2019**ADDRESS:** 1415 W. 10th St**COUNCIL DISTRICT:** 9**OWNER:** Dr. Samir Patel**AGENT:** April Clark, Clark Richardson LLC**ZONING:** SF-3-NP**LEGAL DESCRIPTION:** LOT 2 WEED SUBD**VARIANCE REQUEST:** Basement Exemption**SUMMARY:** erect a Single-Family residence**ISSUES:** inclined natural grade, number of protected trees, and irregular shaped lot

	ZONING	LAND USES
<i>Site</i>	SF-3-NP	Single-Family
<i>North</i>	SF-3-NP	Single-Family
<i>South</i>	SF-3-H-HD-NP	Single-Family
<i>East</i>	SF-3-NP	Single-Family
<i>West</i>	SF-3-HD-NP; MF-4-HD-NP	Single-Family; Multi-Family

NEIGHBORHOOD ORGANIZATIONS:

Austin Independent School District
 Austin Lost and Found Pets
 Austin Neighborhoods Council
 Homeless Neighborhood Association
 Neighborhood Empowerment Foundation
 Old West Austin Neighborhood Assn.
 Old West Austin Neighborhood Plan Contact Team
 Preservation Austin
 SEL Texas
 Save Barton Creek Assn.
 Shoal Creek Conservancy
 Sierra Club, Austin Regional Group

1-5/2^{12TH}



NOTIFICATIONS

CASE#: C15-2019-0064
LOCATION: 1415 W 10th Street



-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY



This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

This product has been produced by CTM for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

1" = 134'



CITY OF AUSTIN

Development Services Department

One Texas Center | Phone: 512.978.4000
505 Barton Springs Road, Austin, Texas 78704

I-5/3

Board of Adjustment General/Parking Variance Application

WARNING: Filing of this appeal stops all affected construction activity.

This application is a fillable PDF that can be completed electronically. To ensure your information is saved, [click here to Save](#) the form to your computer, then open your copy and continue.

The Tab key may be used to navigate to each field; Shift + Tab moves to the previous field. The Enter key activates links, emails, and buttons. Use the Up & Down Arrow keys to scroll through drop-down lists and check boxes, and hit Enter to make a selection.

The application must be complete and accurate prior to submittal. **If more space is required, please complete Section 6 as needed.** All information is required (if applicable).

For Office Use Only

Case # _____	ROW # _____	Tax # _____
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Section 1: Applicant Statement

Street Address: 1415 W. 10th Street

Subdivision Legal Description:
Lot 2, Weed Subdivision, A subdivision in Travis County, Texas

Lot(s): 2 Block(s): _____

Outlot: _____ Division: Weed

Zoning District: SF-3 NP

I/We Clark Richardson LLP on behalf of myself/ourselves as authorized agent for Dr. Samir Patel affirm that on Month October, Day 8, Year 2019, hereby apply for a hearing before the Board of Adjustment for consideration to (select appropriate option below):

Erect Attach Complete Remodel Maintain Other: _____

Type of Structure: Single Family Residences

Portion of the City of Austin Land Development Code applicant is seeking a variance from:

Subchapter F Section 3.3.3-B-2 Basement Exemption. "2. The finished floor of the first story is not more than three feet above the avg elevation at the intersections of the min. front yard setback line & the side prop lines." We request the finished floor of the first story is not more than three feet above the average elev. @ the inter. of front building line & side prop. lines.

Section 2: Variance Findings

The Board must determine the existence of, sufficiency of, and weight of evidence supporting the findings described below. Therefore, you must complete each of the applicable Findings Statements as part of your application. Failure to do so may result in your application being rejected as incomplete. Please attach any additional supporting documents.

NOTE: The Board cannot grant a variance that would provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.

I contend that my entitlement to the requested variance is based on the following findings:

Reasonable Use

The zoning regulations applicable to the property do not allow for a reasonable use because:

Due to an inclined natural grade, the number of protected Post Oak trees and irregular shape of the lot, we must position the house further back on the property and it will be roughly 7'-8' above the natural grade at the minimum front yard setback (per code) while being AT grade where we are building. This would in essence require us to sink the first floor of the home by 3'-4' in order to qualify for the basement exemption 3.3.3 B-2

Hardship

a) The hardship for which the variance is requested is unique to the property in that:

1. Incline of the site sloping from the street up. If it sloped in the other direction like other properties on the street we would meet the requirements. 2. Significant number of protected Post Oaks on the site. If they were not there we could build closer to the the street. 3. Del Rio soils require the excavation of an equivelance to a basement, with this rariance we would just be able to use this already excavated area as a basement below the house.

b) The hardship is not general to the area in which the property is located because:

This property specifcally has numerous Post Oak Trees which neighboring properties do not have. Additionally, this particular lot has significant slope (10' front to back), the other side of the street does not they are relatively flat nor do most adjacent properties. The opposite side of the street would meet this section of the code as would adjacent properties without this variance request.

Area Character

The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because:

We will meet all other sections of exemption 3.3.3, the height of our structure will not extend beyond required Mc Mansion Tents. The intent of the code section is being met, this will not be a walk out basement. The adjacent properties will not see or be impacted by being allowed to have this basement as a non-FAR contributing element as would be the case if our property sloped in the opposite direction or if it was flat.

Parking (additional criteria for parking variances only)

Request for a parking variance requires the Board to make additional findings. The Board may grant a variance to a regulation prescribed in the City of Austin Land Development Code Chapter 25-6, Appendix A with respect to the number of off-street parking spaces or loading facilities required if it makes findings of fact that the following additional circumstances also apply:

- 1. Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonably require strict or literal interpretation and enforcement of the specific regulation because:

N/A

- 2. The granting of this variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets because:

N/A

- 3. The granting of this variance will not create a safety hazard or any other condition inconsistent with the objectives of this Ordinance because:

N/A

- 4. The variance will run with the use or uses to which it pertains and shall not run with the site because:

N/A

Additional Space (continued)

We would like to request to be put on the next Board of Adjustments meeting to request a variance and/or request a special exception. Our specific request is centered on the Subchapter F Basement exemption.

Subchapter F excerpt from section 3.3.3

B. A habitable portion of a building that is below grade if:

1. The habitable portion does not extend beyond the first-story footprint and is:

a. Below natural of finished grade, whichever is lower; and

b. Surrounded by natural grade for at least 50% of its perimeter wall area, if the habitable portion is required to be below natural grade under paragraph 1.a.

2. The finished floor of the first story is not more than three feet above the average elevation at the intersections of the minimum front yard setback line and the side property lines.

Our Geotech report for this particular property has Del Rio Clay which has a high percentage of shrinkage and expansion , typically the removal of roughly 6' of soil is recommended for a stable foundation. Our client would like to build a basement since the excavation is already required by the soils report. This would be directly below the 1st floor footprint, so we would qualify for the basement exemption above section 3.3.3 B-1.

Due to the inclined natural grade at this specific lot that slopes up from the street, the number of protected Post Oak trees and irregular shape of the lot, we must position the house further back on the property and it will be roughly 7'-8' above the natural grade at the front yard setback while being AT GRADE where we are building. To take advantage of this exemption we would in essence be required to sink the first floor of the home by 3-4 feet in order to qualify for the basement exemption item 2 above. We feel we are meeting the intent of the code as we will not be protruding above the grade, and from discussions with Emily Layton she agreed but did not have a mechanism for allowing it. We also feel this is a reasonable use of the property, ie having a below grade basement not exceeding the footprint of the building.

We are requesting that the elevation that determines the exemption be measured at the intersection of the front building line and the side property lines. Therefore the finished floor of the first story would not more than three feet above the avarage elevation at the intersections of the front building line and side property lines.



Section 3: Applicant Certificate

I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Applicant Signature: _____ Date: 10/08/2019

Applicant Name (typed or printed): April Clark, Clark Richardson LLC

Applicant Mailing Address: 618 Lavaca St. Suite 7

City: Austin State: Texas Zip: 78701

Phone (will be public information): (512) 636-7653

Email (optional – will be public information): [REDACTED]

Section 4: Owner Certificate

I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Owner Signature: _____ Date: 10/08/2019

Owner Name (typed or printed): Dr. Samir Patel

Owner Mailing Address: 1701 Chicon St

City: Austin State: Texas Zip: 78702

Phone (will be public information): (512) 636-7653

Email (optional – will be public information): _____

Section 5: Agent Information

Agent Name: April Clark

Agent Mailing Address: 618 Lavaca St. Suite 7

City: Austin State: Texas Zip: 78702

Phone (will be public information): (512) 636-7653

Email (optional – will be public information): [REDACTED]

Section 6: Additional Space (if applicable)

Please use the space below to provide additional information as needed. To ensure the information is referenced to the proper item, include the Section and Field names as well (continued on next page).

Please see following page for full description.

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Owner Signature:  Date: 10/08/2019

Owner Name (typed or printed): Dr. Samir Patel

Owner Mailing Address: 1701 Chicon St

City: Austin State: Texas Zip: 78702

Phone (will be public information): (512) 636-7653

Email (optional – will be public information):

Section 5: Agent Information

Agent Name: April Clark

Agent Mailing Address: 618 Lavaca St. Suite 7

City: Austin State: Texas Zip: 78702

Phone (will be public information): (512) 636-7653

Email (optional – will be public information): 

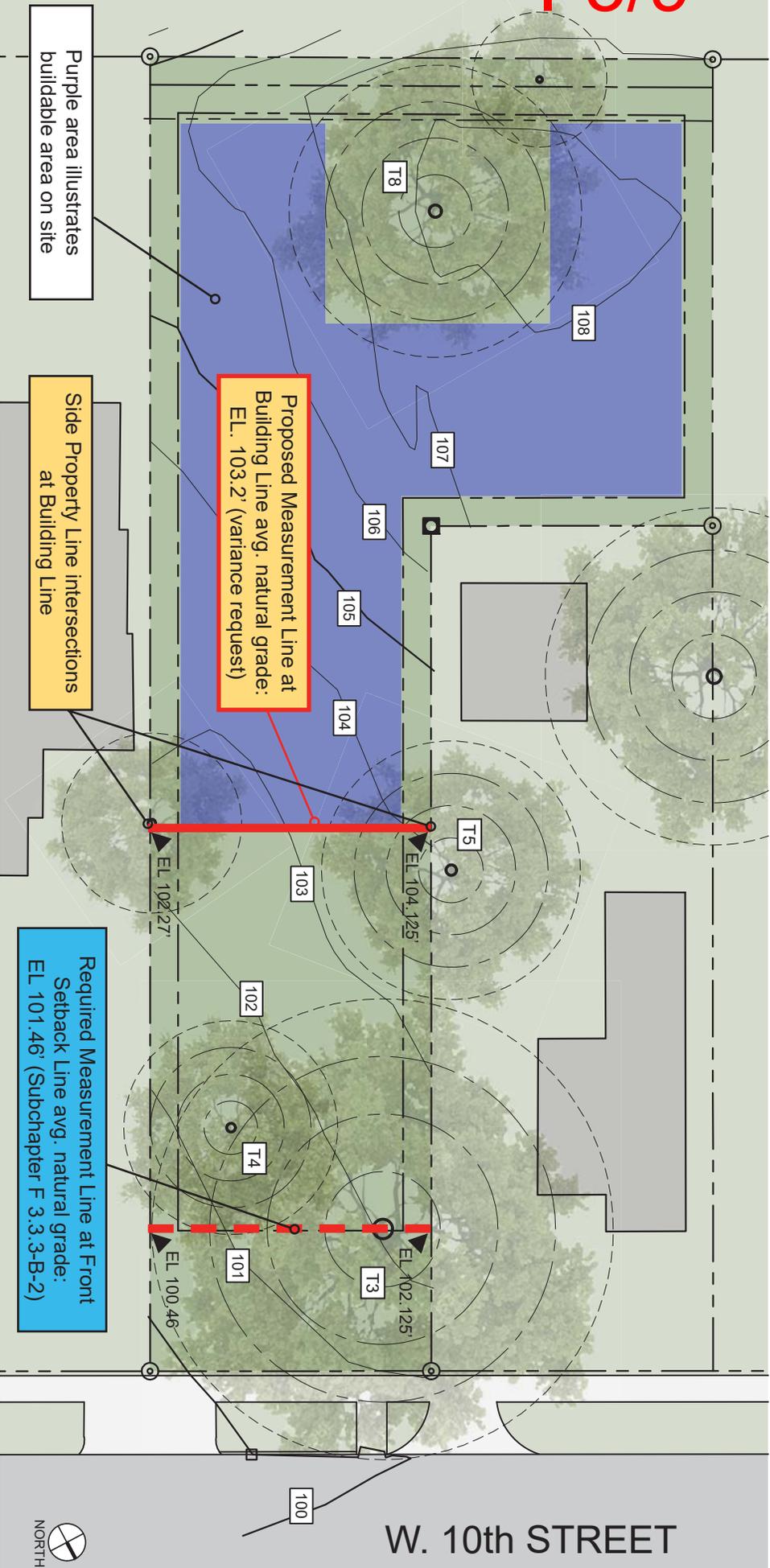
Section 6: Additional Space (if applicable)

Please use the space below to provide additional information as needed. To ensure the information is referenced to the proper item, include the Section and Field names as well (continued on next page).

Please see following page for full description.

VARIANCE REQUEST

I-5/9



FOLLOWING SUBCHAPTER F - 3.3.3: Porches, basements, and attics that meet the following requirements shall be excluded from the calculation of gross floor area:

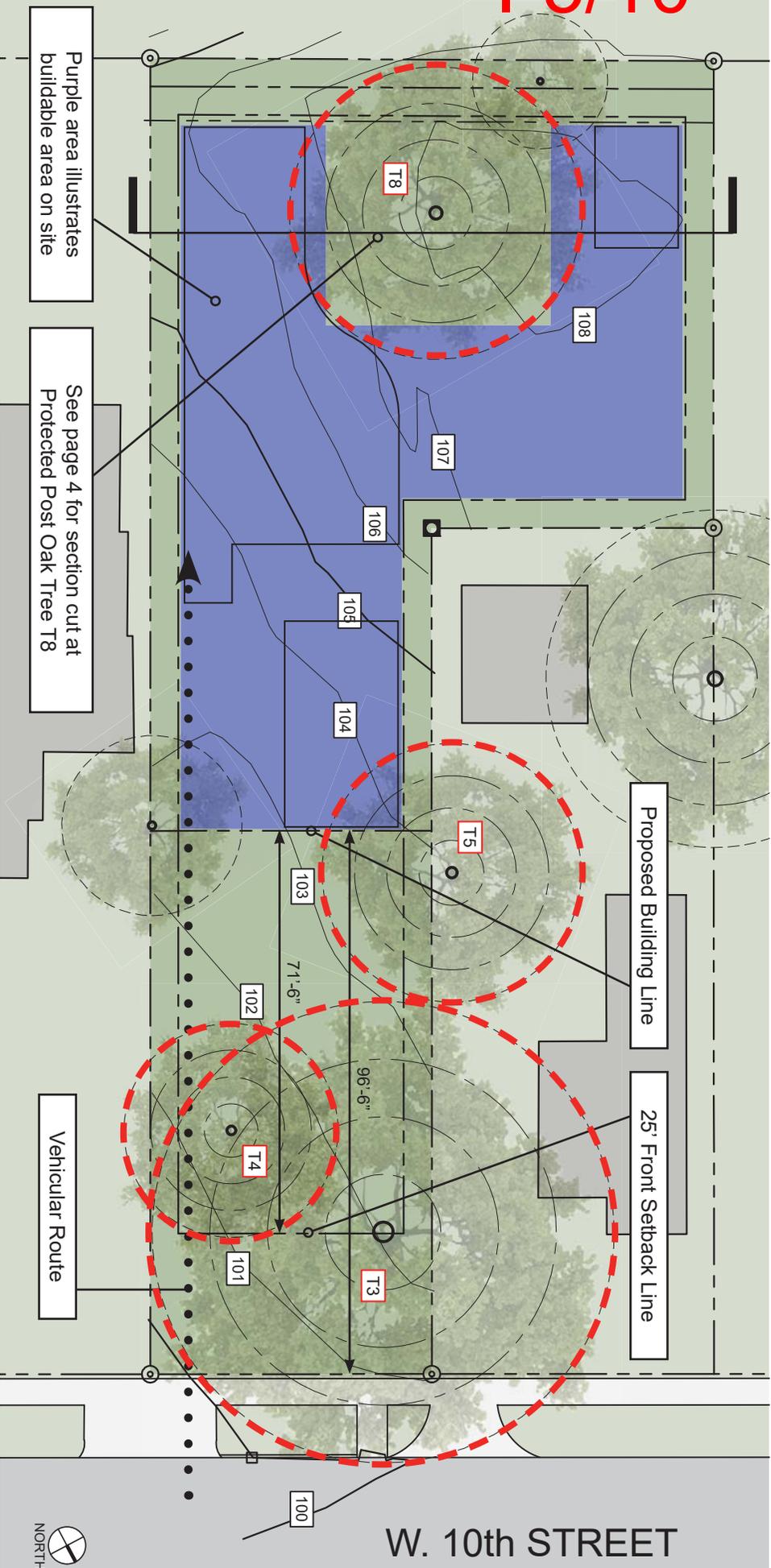
- B: A habitable portion of a building that is below grade if:
1. The habitable portion does not extend beyond the first-story footprint and is:
 - a. Below natural or finished grade, whichever is lower; and
 - b. Surrounded by natural grade for at least 50% of its perimeter wall area, if the habitable portion is required to be below natural grade under paragraph 1.a.
 2. The finished floor of the first story is not more than three feet above the average elevation at the intersections of the minimum front yard setback line and the side property lines.

VARIANCE REQUEST TO ALLOW REASONABLE USE OF PROPERTY:

We request that the finished floor of the first story is not more than three feet above the average elevation at the intersections of the Front Building Line and Side Property Lines.

SITE HARDSHIP: TREES

I-5/10



SITE HARDSHIP: Protected trees limit buildable area and site access.

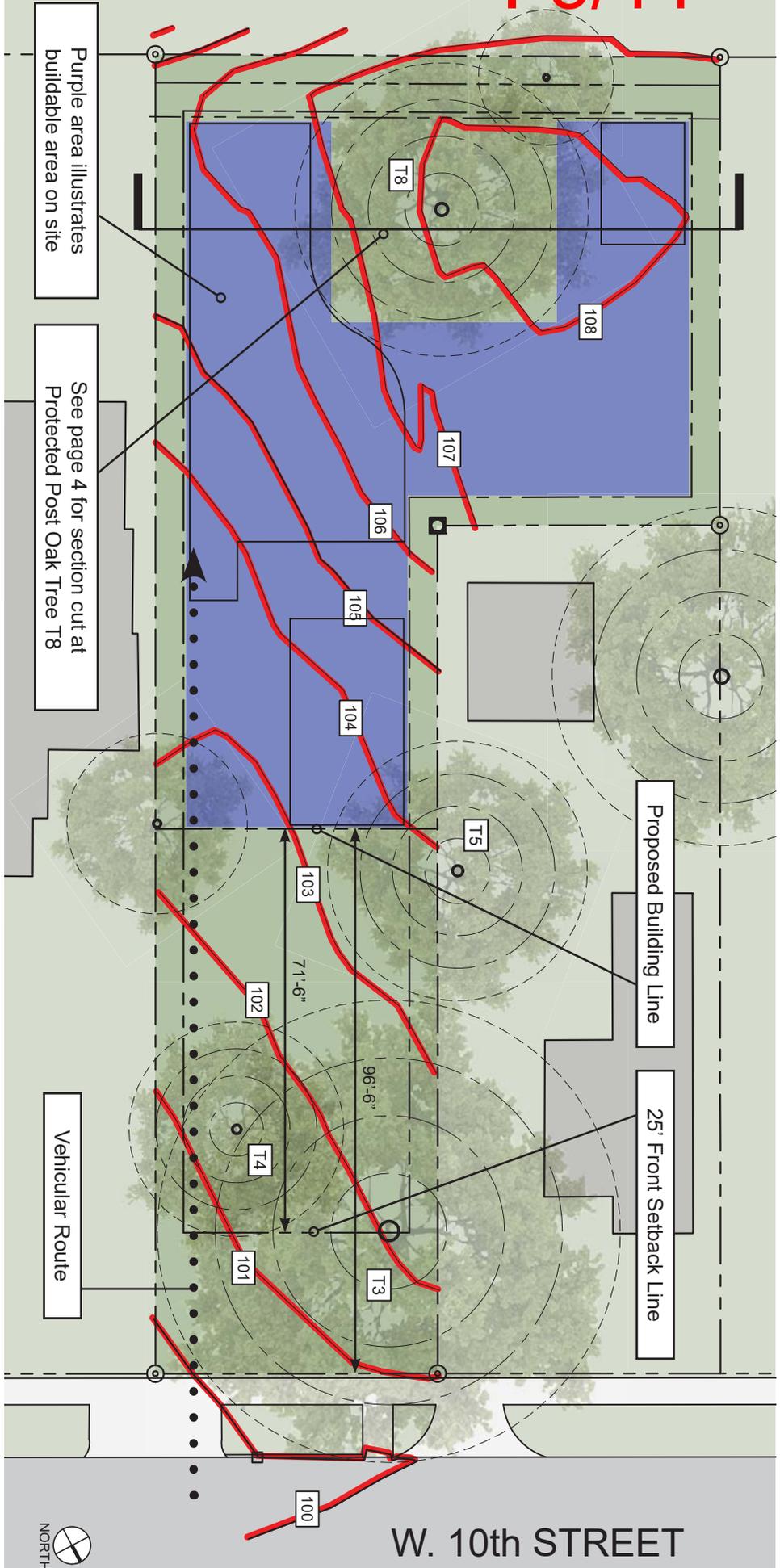
- | | | |
|----------|-------------------------|----------------|
| Tree T3: | 41" Multi-Stem Post Oak | Heritage Tree |
| Tree T4: | 19" Post Oak | Protected Tree |
| Tree T5: | 23" Post Oak | Protected Tree |
| Tree T8: | 26" Post Oak | Heritage Tree |

Because of the protected tree arrangement, site vehicular access from W. 10th is restricted to an existing shared drive throat.

The buildable area of the site is restricted by multiple heritage or protected size trees, especially at the front of the site.

SITE HARDSHIP: TOPOGRAPHY

I-5/11



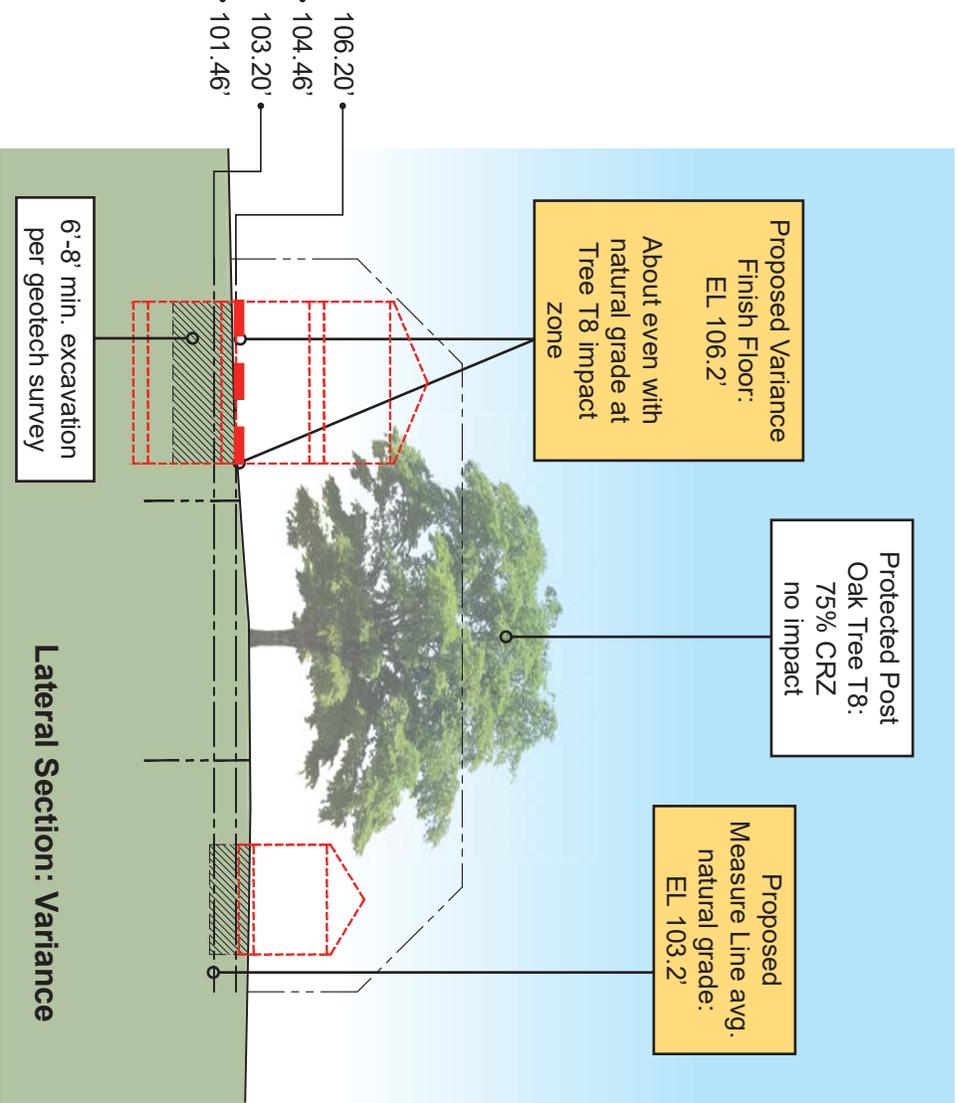
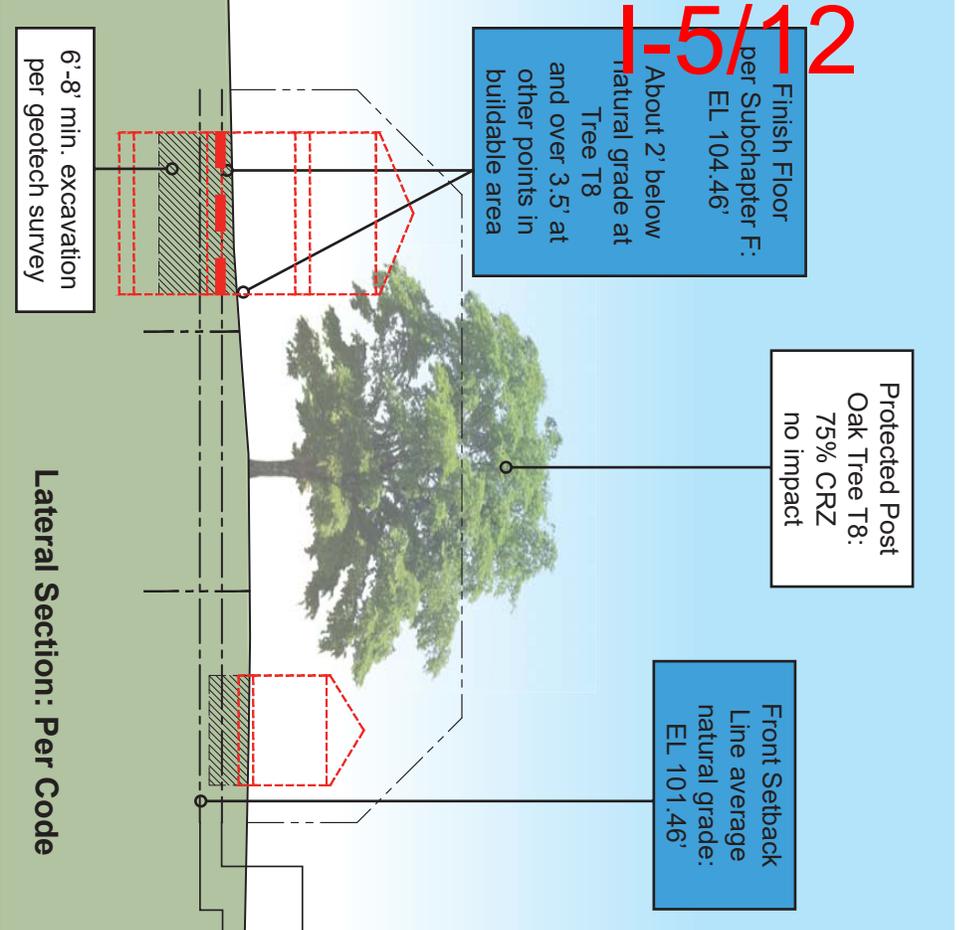
SITE HARDSHIP: Contour rise from the front of the site to the back of site.

There is over 8' of contour rise on the site from the front property line to the crest at the back of the site, and over 5'-6" of contour rise within the buildable area.

Protected Post Oak Trees T3, T4, & T5 at the front of the site limit vehicular route and impact, requiring a ramped entry to access the building roughly 4' up-slope at natural grade from the front property line.

Protected Post Oak Tree T8 at the back of the site limits natural grade changes and construction impacts at the main buildable area.

VARIANCE REQUEST



Geotech review recommends 6'-8' of soil excavation at all structural slab locations due to soil conditions. This volume can be utilized towards a full basement while remaining true to the spirit of the Subchapter F 3.3.3-B-2 basement requirements. All other sections of exemption 3.3.3 will be met - there will be no walk-out basement - and the height of the structure will comply with the McMansion Tent. Adjacent properties will not be impacted by allowing a full basement as a non-FAR contributing element.

FOLLOWING SUBCHAPTER F - 3.3.3:

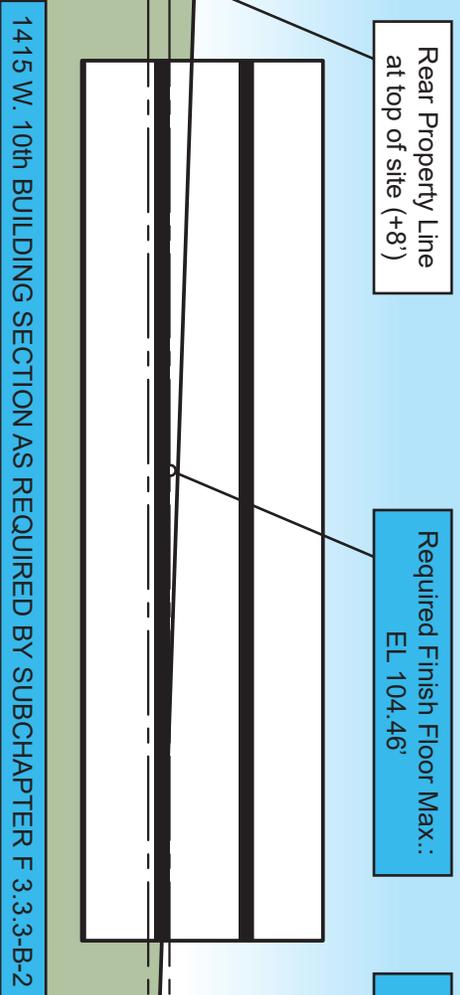
The Subchapter F requirement would place the maximum finish floor height at elevation 104.46'. The main floor of the house would therefore be 3.5' below the contour elevation at the top of the site (EL 108') to take advantage of the exemption. Protected Post Oak Tree T8 prevents adjustments to grade within the 75% CRZ.

VARIANCE REQUEST:

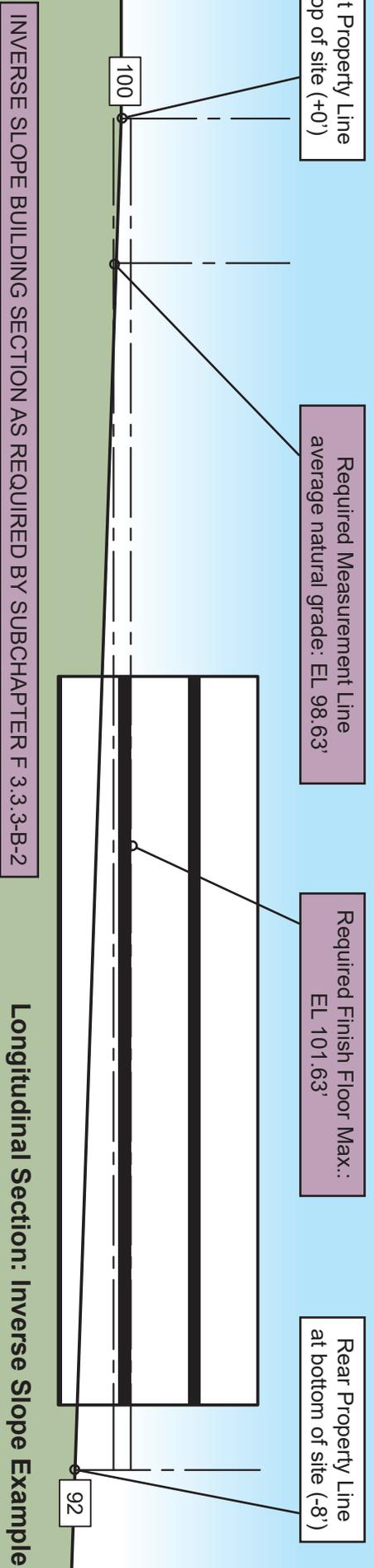
By measuring the elevation that determines the exemption at the intersection of the front of the building line and the side property lines, the proposed first story finish floor height would be at elevation 106.2', close to level with the natural grade at the 100% CRZ at Protected Post Oak Tree T8.

RESTRICTIONS UNIQUE TO PROPERTY

I-5/13



Longitudinal Section: Subject Property

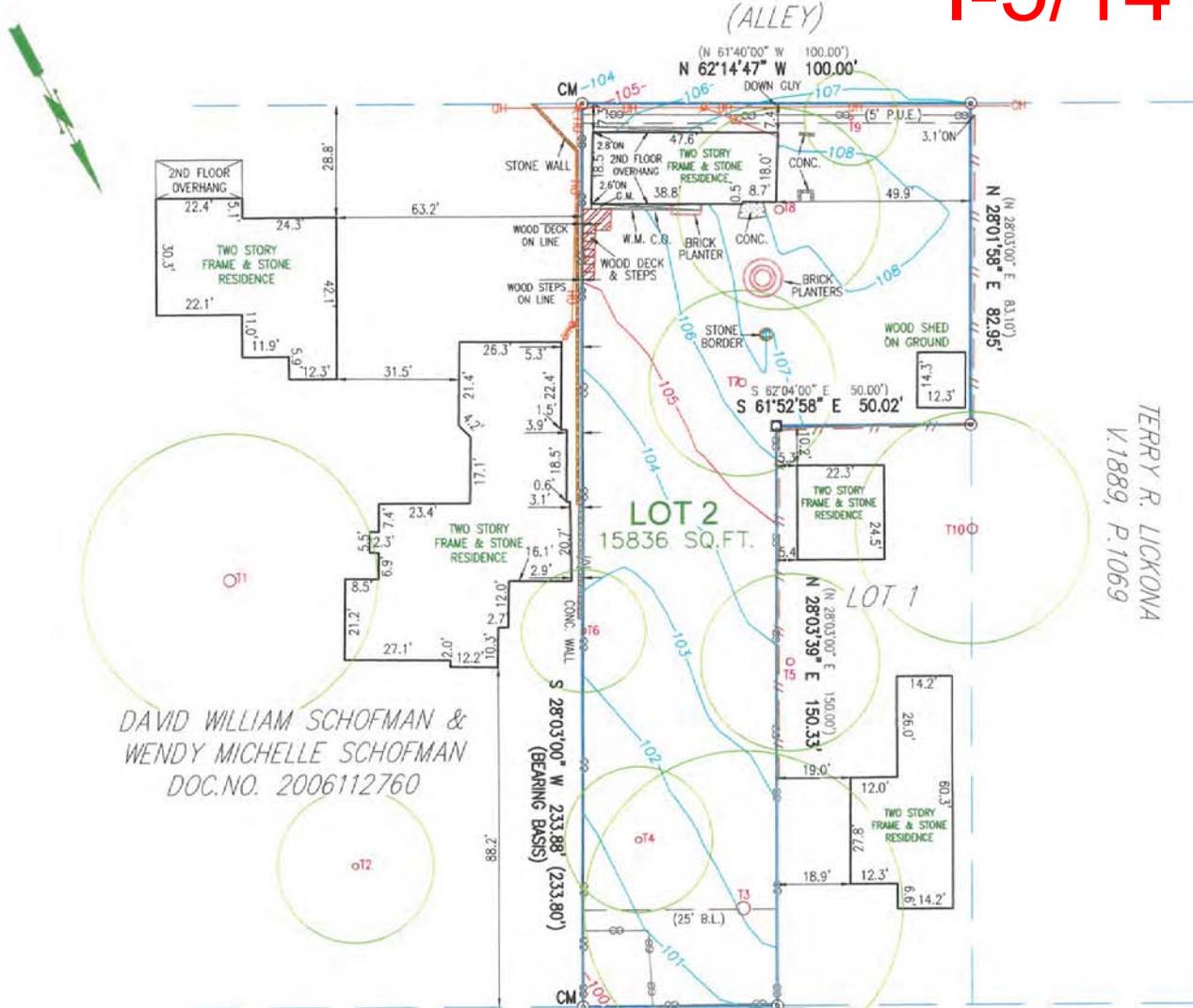


RESTRICTIONS UNIQUE TO PROPERTY: If the contours were inverse, there would be no need for variance.

In addition to the high quantity of protected Post Oak trees, the direction of grading sets up restrictions unique to the property.

If the same site layout were located on the opposite side of the street, so that the front of the site was at the top contour level, no variance would be required. Any basement area would be easily accommodated and even day-lit on most sides.

Our understanding of the intent of Subchapter F - 3.3.3-B-2 is to prevent walk-out basements. With the variance request, our design will meet the intent of the code; there will not be a walk-out basement.



DAVID WILLIAM SCHOFMAN &
WENDY MICHELLE SCHOFMAN
DOC. NO. 2006112760

TERRY R. LICKONA
V.1889, P.1069

TAG NO.	TREE DESCRIPTION
1	38" ASH TREE
2	20" M.S. PECAN TREE
3	41" M.S. POST OAK
4	19" POST OAK TREE
5	23" POST OAK TREE
6	16" ELM TREE
7	23.9" ELM TREE*
8	26" POST OAK TREE
9	12" ELM TREE
10	30" POST OAK TREE

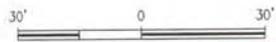
M.S. = MULTI-STEM

This tree location survey certifies the size and location of the trees depicted hereon. B&G Surveying, LLC, nor the undersigned, certify the Species/Genus of these trees. For exact Species/Genus contact a Certified Arborist.

TEMPORARY BENCHMARK: SQUARE CHISELED ON CURB, ASSUMED ELEVATION = 100.00'
S 61°54'43" W 49.98'
(S 62°04'00" E 50.00')

WEST 10TH STREET
(60' R.O.W.)

**SPECIAL NOTE:
Tree T7 was measured by Mark Mann, Certified Arborist, of Davey Tree Service on August 2, 2019, at 23.9" diameter below the irregular swelling.



LEGEND	
	1/2" REBAR FOUND
	1/2" CAPPED REBAR SET
	1/2" IRON PIPE FOUND
	600 NAIL FOUND
	600 NAIL SET
	CAPPED REBAR FOUND
	"X" SET IN CONCRETE
	"X" FOUND IN CONCRETE
	CHAIN LINK FENCE
	WOOD FENCE
	METAL FENCE
	B.L. BUILDING LINE
	P.U.E. PUBLIC UTILITY EASEMENT
	D.E. DRAINAGE EASEMENT
	C.O. CLEAN OUT
	G.M. GAS METER
	W.M. WATER METER
	() PER PLAT
	C.M. CONTROL MONUMENT
	R.O.W. RIGHT OF WAY
	P.O.B. PLACE OF BEGINNING
	OH OVERHEAD UTILITY LINE
	AP AIR CONDITIONER

[Signature]
TO THE LIENHOLDER AND/OR PRESENT OWNERS OF THE PREMISES SURVEYED AND TO
STEWART TITLE GUARANTEE COMPANY

I DO HEREBY CERTIFY TO THOSE LISTED HEREON THAT THIS SURVEY WAS THIS DAY MADE ON THE GROUND, UNDER MY SUPERVISION OF THE PROPERTY LEGALLY DESCRIBED HEREON, IS PREPARED IN ACCORDANCE WITH THE TITLE COMMITMENT REFERENCED HEREON, AND THAT THERE ARE NO VISIBLE BOUNDARY LINE CONFLICTS, ENCROACHMENTS, OVERLAPPING OF IMPROVEMENTS, OR ROADS IN PLACE, EXCEPT AS SHOWN HEREON. BUILDING DIMENSIONS ARE APPROXIMATE.



Notes:
1) Subject to restrictions and easement rights as stated in Book 75, Page 284, Plat Records.

or TREE LIST UPDATED: 08/20/19

STREET ADDRESS: 1410 WEST 10TH STREET CITY: AUSTIN COUNTY: TRAVIS STATE OF TEXAS
LOT: 2 SUBDIVISION: WEED SUBDIVISION VOL/CAB: 75 PG/SLD: 284 PLAT RECORDS
REFERENCE NAME: SAMIR PATEL G.F. #: 1109747

B & G SURVEYING, LLC
FIRM REGISTRATION NO. 100363-00
WWW.BANDGSURVEY.COM
1404 West North Loop Blvd.
Austin, Texas 78756 - Office 512-458-6969

JOB #: B0725119_TA
DATE: 08/12/19
SCALE: 1" = 30'

FIELD WORK BY	CM	08/05/19
CALC'D BY	VC	08/07/19
DRAFTED BY	AKS	08/09/19
CHECKED BY	VC	08/12/19

